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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,049	11/20/2001	Joseph Coligado	OP-1002-A	6312

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EXAMINER

BROWN, MICHAEL A

ART UNIT PAPER NUMBER

3764

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/989,049

Applicant(s)

COLIGADO, JOSEPH

Examiner

Michael Brown

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 19-33 is/are allowed.
- 6) ☒ Claim(s) 1-4, 7, 8 and 15-18 is/are rejected.
- 7) ☒ Claim(s) 5, 6 and 9-14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-4 are rejected under 35 U.S.C. 102(a) as being anticipated by Finnell.

Finnell discloses in figures 1-6 a thigh cuff comprising a thigh shell 10 having a first component 12, a second component 14, a rear adjustment panel 18, a front adjustment panel 16, an adjustment slot 50 in the rear panel, the rear adjustment panel is connected between the first component and second component at two connection points (fig. 1). The first component and the second component are adjustable vertically and laterally (the components can be rotated which provides some vertical movement and laterally by the slot 50).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Cumins.

Cumins discloses in figures 1-10 a pelvic bracing system comprising a hip brace 13, a thigh cuff 55 adjustable vertical (at 47,49) and horizontal (at 45,53), an articulating orthopedic joint 21, a thigh shell 43 having a first 45 and a second component 45.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rofles.

Rofles discloses figures 1-10 a pelvic bracing system comprising a hip brace 24, a thigh cuff 124 adjustable vertically and laterally (through Velcro attached to the cuff), an articulating orthopedic joint 22, a thigh shell 90 having a first component 110 and a second component (112, 114), the thigh cuff includes a first rear

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Finnell in view of Rofles.

Finnell discloses in figures 1-2 a pelvic bracing system comprising a first hip plate 14, a second hip plate 12, pivotally connected to one another (at 32 and 50) and a thigh device (col. 3, lines 33-38). However, Finnell does not disclose an articulating joint, a

mounting block or the thigh cuff having at least one strap. Rolfes teaches in figures 1-10 a pelvic bracing system comprising a hip plate 24, a thigh cuff 124 an articulating orthopedic joint 32, a mounting block (34, 36) having threaded channels 44 and a strap 116 on the cuff. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the thigh cuff having at least one strap, the mounting block and the articulating joint as taught by Rolfes could be substituted for the thigh device disclosed by Finnell in order to be able to support the pelvic and the thigh by using an integral device. The strap on the cuff could be used to adjust the thigh cuff around the user's thigh. The mounting block could be used to adjust the angle between the thigh cuff and the hip plates.

#### ***Allowable Subject Matter***

Claims 5-6 and 9-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 19-33 are allowed.

#### ***Conclusion***

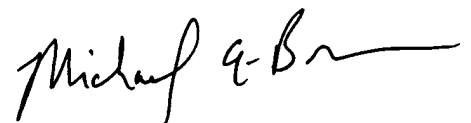
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schwenn and Axelson each disclose a pelvic support system. Although each of these references discloses structural limitations recited in the claims, neither was used to reject any claims, in the first office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brown whose telephone number is 703-308-2682. The examiner can normally be reached on 5:30 am-4:00 pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 703-308-2698. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Brown  
June 7, 2004



**MICHAEL A. BROWN**  
**PRIMARY EXAMINER**